IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

A. O. NO. 492 OF 2002

Shri Mahadeo Pirappa Mhetre . ... Appellant
VS.
Dropadabai D. Naikwadi & ors. . ... Respondents

Ms. Manjih Parasnis
i/b. G. S. Godbole for appellant.

Surel S.Shah for respondent nos.1 and 2.

CORAM: D. G. KARNIK **J.**

DATE: 13th October 2006

P.C.:

1. Heard learned counsel for the parties.

2. By this appeal the appellant challenges the order dated 22nd February 2004 passed below exhibit 7 by the District court in Civil Appeal No. 568 of 2000 restraining the appellant herein from obstructing the possession of the respondent.

3. The respondent filed a suit against the appellant in the Court of Civil Judge, Senior Division, Solapur. The suit was valued at Rs.2,08,750/- . Aggrieved by the decision in the suit the

respondent filed an appeal bearing regular Civil suit No. 568 of 2000 in the District Court at Solapur. In the said appeal the respondent made an application for interim injunction at exhibit "5". By the order dated 20th February 2001 the District Court granted the injunction. That order is impugned in this appeal.

4. Learned counsel for the respondent submitted that the appeal before the District court was incompetent as the suit was valued at Rs.2lakhs. He submitted that since suit claim was for more than Rs.2 lakhs the appeal against the decision of the trial court lay to this court and not to the District court. Learned counsel for the respondent concedes that the appeal in the district court was incompetent and that on account of the objection of the appellant the respondent has already withdrawn the appeal in the District court and has filed the first appeal in this court. Since it is conceded that the district court had no jurisdiction to try the appeal and since it is further admitted that the appeal no. 568 of 2000 in which interim order was passed has already been withdrawn, the impugned order cannot stand.
5. Accordingly this appeal is allowed and the impugned order is quashed and set aside.

(D.G. KARNIK J.)